



CANNON BUILDING  
861 SILVER LAKE BLVD., SUITE 203  
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE  
**DEPARTMENT OF STATE**

DIVISION OF PROFESSIONAL REGULATION

TELEPHONE: (302) 744-4500  
FAX: (302) 739-2711  
WEBSITE: WWW.DPR.DELAWARE.GOV

**PUBLIC MEETING NOTICE:**

**BOARD OF DENTISTRY & DENTAL HYGIENE**

**DATE AND TIME:**

**Thursday, June 16, 2011 at 3:00 p.m.**

**PLACE:**

861 Silver Lake Boulevard, Dover, Delaware  
**PSC Hearing Room**, first floor of the Cannon Building

**APPROVED:**

August 25, 2011

**MEMBERS PRESENT**

Neil McAneny, DDS, Professional Member, President  
Blair Jones, DMD, Professional Member, Secretary  
Thomas Cox, DDS, Professional Member  
John Lenz, DDS, Professional Member  
Robert Director, DDS, Professional Member  
Joan Madden, RDH, Professional Hygiene Member  
Cheryl Calicott-Trawick, Public Member  
Debra Bruhl, RDH, Hygiene Advisory Member (left at 3:33 p.m.)  
Fay S. Rust, RDH, Hygiene Advisory Member

**MEMBERS ABSENT**

Nathaniel Gibbs, Public Member  
Frances Pruitt, Public Member  
Bonnie Thomas, RDH, Hygiene Advisory Member

**DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Allison Reardon, Deputy Attorney General  
Michele Howard, Administrative Specialist II

**PUBLIC PRESENT**

Rebecca Root  
Lindsay Baiocco  
Alexia Lento  
AnnMarie Tinnerello  
Allison Maye  
Fallon Duschl  
Frances Pine  
Steven Pine  
Denise Maroney  
Bruce Matthews  
Melissa Lesniczak  
Nathan Lesniczak  
Teresa Davis  
Abbie Hopkins  
Ellen Grimes

Karen Scarangella  
Laima Anthaney, DMD  
David S. Willaims, DMD  
Sean Mercer

### **CALL TO ORDER**

Dr. McAneny called the meeting to order at 3:10 p.m.

### **REVIEW AND APPROVAL OF MINUTES**

The Board reviewed the minutes of the May 26, 2011 Board meeting. Ms. Howard read aloud two revisions recommended by Dr. Director, as follows:

- 1) Page 3, add Dr. Director's name to the list of members who attended the exam calibration exercise at Dr. Jones' office
- 2) Page 5, correct the spelling of Dr. Frances Leach

Dr. Director made a motion, seconded by Dr. Jones, to approve the minutes as amended. The motion passed unanimously.

Dr. McAneny made a motion, seconded by Dr. Jones, to amend the agenda to add item 5.2.1.5 *Akindeko Obebe* under the review of applications for dentist licensure. The motion passed unanimously.

### **DENTAL & DENTAL HYGIENE EXAMS – SCORE REPORTING**

The examiners read aloud their scores of the Dental and Dental Hygiene examinations. Ms. Howard calculated an average score for each candidate, and read the final score aloud along with the results of each candidate's Jurisprudence examination and DOR examination, if applicable. The final dental exam results were as follows: 5 passed, 2 failed, and 1 was a "no-show". The final dental hygiene exam results were as follows: 12 passed, 1 passed pending the jurisprudence exam, 5 failed, 3 did not test due to having patients unacceptable to the examiners, and 2 were "no-shows".

Dr. McAneny addressed the public and advised that any candidate who failed the exam may request a time to discuss where the candidate's mistakes were made. Ms. Reardon advised that interested candidates should contact Ms. Howard, the Board's Administrative Specialist, at the Division to confirm a time and date to meet with Examiners. Ms. Howard confirmed that the Board will meet on August 25, 2011.

Ms. Bruhl left the meeting at 3:33 p.m.

### **UNFINISHED BUSINESS**

#### **Validation of Dental and Dental Hygiene Clinical Exams – Review Cost Estimates**

Ms. Howard advised that Division Director Collins approved the expense of \$2,000 for Temple University to revalidate both the dental and dental hygiene clinical exams. Ms. Howard has received confirmation from Dr. Sarah Gray at Temple that two Temple staff members are currently reviewing the exam information. Dr. McAneny reported that he had spoken with the two doctors at Temple regarding their evaluations, and asked them if they would be available to meet with the Board. Both Temple doctors declined the offer to meet with the Board due to difficult schedules. The doctors advised Dr. McAneny, however, that they will accept written input from the Board regarding issues the Board members would like to see addressed during the evaluations of the exams. Ms. Rust will coordinate with the other hygienists to develop a list of issues they would like to see addressed. Dr. McAneny is hopeful that the evaluations will be completed by the end of the summer, and asked if the revalidated exams could be in place for January 2012. Ms. Howard stated that depending on when the evaluations are received and finalized by the Board, there may not be enough time to post changes regarding the exam on the Board's website. Ms. Reardon advised that even if changes are not posted on the Board's website, the Board could still implement the changes for January 2012 if the exam information is provided directly to the candidates.

Rules & Regulations – Update from Ms. Reardon

Ms. Reardon reported that she will submit the Board's proposed changes to its Rules and Regulations to the Register of Regulations in order to schedule a public hearing for the December Board meeting since the Board already has 2 disciplinary hearings scheduled for the September meeting.

Vicki Korr-Pringle: Deadline to Complete 2.0 CE for 2008-2010 Audit

Ms. Howard reported that she had spoken with Ms. Korr-Pringle on the phone after last month's meeting, and that the Board office had mailed a letter to Ms. Korr-Pringle notifying her of the Board's decision to accept 22 of her CE credits, and reject the 2.0 CE hours she submitted for an unaccredited seminar given by Greeley & Nista Orthodontics. Ms. Korr-Pringle resubmitted her audit spreadsheet indicating her request to receive 2.0 CE hours for reading the April 2011 issue of AGDImpact magazine, per the Board's Rule 6.9.4.2.1. Dr. McAneny, Dr. Director, Dr. Lenz, Dr. Jones, Ms. Rust, and Ms. Madden reviewed the audit submission. Ms. Madden made a motion, seconded by Ms. Rust, to approve Ms. Korr-Pringle's reading of the April 2011 AGDImpact magazine for 2.0 CE credits, and accept her final audit submission. The motion passed unanimously.

Seminar held by Greeley & Nista Orthodontics – Update from Ms. Howard

Ms. Howard read aloud the letter from the Board to Greeley & Nista Orthodontics notifying them of the Board's decision from its May meeting, and the letter from the Delaware State Dental Society (DSDS) received by the Board office regarding Greeley & Nista's seminar. Dr. McAneny stated that he was under the impression that neither the Dental Society nor the Delaware Dental Hygiene Association would independently accredit a course, but would sponsor a course accredited by a national organization such as ADA or PACE. Dr. Jones read aloud Rule 6.5.1.8, and Ms. Reardon advised that the Rule should be considered by the Board. Dr. Director asked if the Board had approved DSDS as an accrediting agency.

Dr. McAneny made a motion, seconded by Dr. Director, not to accept DSDS or DDHA as acceptable agencies for accrediting continuing education. The Board held discussion on the motion. Ms. Madden stated that she has attended "lunch and learn" seminars in the past, which were sponsored by her office and offered attendees 1.0 CE credit for attendance. Ms. Madden asked if the "lunch and learn" seminars were acceptable to the Board. Dr. McAneny advised that the "lunch and learn" seminars should be accredited in order to offer CEUs. Dr. Lenz stated that the "lunch and learn" seminars can offer CE credits, but the Board doesn't necessarily have to accept them. Dr. McAneny questioned whether or not DSDS or DDHA has qualified people to accredit courses for CE credit. Dr. Lenz stated that the Board does not want to be an accrediting organization, and that acceptable courses should all be accredited by ADA, PACE, AGD or CERP. Dr. McAneny and Dr. Lenz stated that Greeley & Nista Orthodontics had not shown proof that they had gone through any accreditation process, and that although previous seminars were sponsored by the DDHA, it is unknown as to whether or not they were actually accredited. Ms. Reardon asked for the Board members' interpretation of Rule 6.9.4.1.4. Ms. Madden stated that Greeley & Nista had offered their seminar for the past 6 years and had given 2.0 CE credits to each attendee.

Dr. McAneny withdrew his motion, and made a new motion to only accept CE credit for courses accredited by a nationally recognized organization, such as PACE or AGD. Ms. Reardon advised Dr. McAneny that the Board could not enforce that motion without a regulation change. Dr. McAneny revised his motion to change the Board's Rules and Regulations to state that the Board will only accept CE credits for courses approved by AGD, CERP, PACE, AMA, ADA, ADHA, and ADAA. Ms. Reardon asked for clarification of the motion, as to whether Dr. McAneny is proposing to keep the current Rule and add to it, or to strike the entire Rule and rewrite it. Dr. McAneny clarified that his motion is to strike DSDS and DDHA as acceptable accrediting agencies. Ms. Reardon asked for further clarification as to whether Dr. McAneny is recommending that the Board strike "constituents and components" of ADHA, ADA and ADAA. Dr. McAneny stated that he is proposing to leave Rules 6.9.4.1.2 and 6.9.4.1.3 as written and strike 6.9.4.1.1, 6.9.4.1.4, 6.9.4.1.5, 6.9.4.1.6, 6.9.4.1.7, and 6.9.4.1.8, adding any national accrediting institution not already listed. Ms. Calicott-Trawick questioned the legitimacy of Dr. McAneny's proposal

to limit and not accept local, regional and state components of national organizations. Ms. Calicott-Trawick added her opinion that the Board should not eliminate local, regional and state components of national organizations, as they provide a level of standard education, and she believes the Board should be able to decide if CE can be approved. Ms. Reardon advised that some professional boards still review continuing education, while others rely on other accrediting agencies to review and recommend approval because the process is time-consuming and course content varies.

Dr. Jones stated his concern that the Board has accepted Greeley & Nista's seminar for the past 6 years, and has now denied the course simply because DDHA pulled its sponsorship. Dr. Jones added that he has personally heard great speakers at Kent-Sussex, and is concerned that the proposal will "squash" education. Ms. Madden agreed and stated that she doesn't want the Board to limit acceptable courses. Ms. Rust stated that Greeley & Nista knowingly presented the seminar without sponsorship and lead the attendees to believe that 2.0 CEUs would be granted by providing attendees with an unaccredited certificate of completion. Ms. Rust asked Dr. McAneny if he could obtain the forms required by national organizations for CE approval. Dr. McAneny agreed that he would obtain the forms for the Board's review. Dr. Lenz added that he will bring the paperwork required by AGD to the Board's August meeting. Ms. Reardon recommended that all of the proposed changes to the Board's Rules and Regulations regarding CE be considered at one public hearing. Dr. McAneny withdrew his motion.

Dr. Jones made a motion, seconded by Ms. Calicott-Trawick, to accept the 2011 Greeley & Nista seminar for 2.0 CE credits. Dr. Director asked that the motion be amended to state that the Board will accept the seminar ONLY because it has been accepted for the last 6 years. Dr. Jones agreed to amend his motion. The motion passed by a majority vote, with Ms. Rust opposed and Ms. Madden abstaining. Ms. Rust expressed concern that 2.0 CEUs were being awarded "after the fact", after the seminar had been denied by the Board at the last meeting.

Ms. Howard will send a letter from the Board to Greeley & Nista Orthodontics stating that, after reconsideration, the Board will accept their 2011 seminar for 2.0 CE credits ONLY because it has been accepted for the past 6 years. The letter will also advise that there is no need to retract the original certificates of completion as requested in the Board's previous letter, and that any future seminars given by Greeley & Nista Orthodontics must receive accreditation from a national organization prior to the seminar. The letter should also advise that the Board is considering changing its Rules and Regulations governing continuing education. The letter will be copied to the DDHA.

The Board took a break at 4:30 p.m., and reconvened at 4:37 p.m.

#### Joint Sunset Committee – Review

Ms. Reardon advised that the Board continues to be under Joint Sunset review and that there is nothing new to report at this time.

#### Protest of Board's Vote on Statute Change – Dr. Director

Dr. Director stated that he "did not take well to having his motion turned down" at the last meeting, and that he had written a letter to the Board President protesting the vote. Dr. Director added that he was protesting the vote on three points and explained them to the Board as follows: First, a public member of the Board stated during the discussion of the vote that she works at the dental clinic at Dover Air Force Base. Dr. Director recommended that she be removed from the Board as she does not qualify to be a public member per Statute 1102(b), and added that he believes her vote to be invalid per Statute 1102(e). Dr. Director stated that his second reason for protest of the vote was based on Statute 1105(c), and that he does not believe that members of the Dental Hygiene Advisory Committee (HAC) should have been permitted to vote on the issue. Dr. Director does not interpret "composition" as stated in Statute 1105(c) to include the date of the exam. Dr. Director's third reason for protest was the "reversal of the vote tally". Dr. Director stated that per Robert's Rules, if a board member abstains then they are counted as not being present as part of the quorum.

President McAneny recognized Ms. Reardon, who advised the Board that she had Deputy Attorney General Patricia Davis-Oliva research the issue of the vote tally. Ms. Reardon advised that the Board is

not governed by Robert's Rules of Order. The Board operates under its enabling statute, the Administrative Procedures Act, and case law. As such, the vote required a majority of the quorum. The quorum consisted of 12 members with only 6 voting affirmatively therefore a majority was not achieved and the vote failed to carry.

Ms. Reardon advised that the new issue brought by Dr. Director regarding the potential conflict of the challenged public member must be reviewed and, if substantiated, brought to the attention of the Director of the Division of Professional Regulation.

Regarding the HAC members' participation in the vote, Ms. Reardon noted that no one objected at the time of the vote. Ms. Reardon advised the Board that she found no case law on point regarding the definition of the term "composition" but referred the members to the dictionary definition of "composition" which provides that composition is the "combining of distinct parts or elements to form a whole" and "the manner in which parts are combined or related", according to [www.freedictionary.com](http://www.freedictionary.com). Ms. Reardon stated that the definition supports a conclusion that the timing of the exam is part of the composition of the exam as a whole and that the legislature was very specific in stating what the HAC members could not vote on. Per 24 Del. C. § 1105(c)(5), "The Committee shall not vote on matters involving changing the scope of practice as defined in § 1101(10)". The HAC members are allowed to participate in the exam and the term should be construed to enable them to vote with the Board on changes to the statute that involve whether the exam should be administered before or after a hygienist graduates from the hygiene program. Ms. Reardon advised that it was her legal opinion that the vote should stand and that the protest should be denied, but that it was ultimately the Board's final decision to make. The Board took 10 minutes to review Ms. Reardon's written legal opinion from 4:45 p.m. until 4:55 p.m.

Dr. Lenz asked for clarification of the definition of *quorum*, and Ms. Reardon advised. Dr. Lenz inquired about employment of public member, Frances Pruitt. Ms. Reardon advised that the issue cannot be resolved until the Director's office can confirm her employment, role, and/or function with the Dover Air Force Base Dental Clinic. Ms. Reardon declined to give a legal opinion without additional review of the matter and agreed to advise the Board at the August Board meeting. Dr. Lenz agreed with Dr. Director that "composition" as stated in Statute 1105(c) does not include allowing the HAC to vote on the date of the hygiene exam.

Ms. Rust stated that the Board voted previously to approve the Greeley & Nista seminar "based on the past". Ms. Rust added that she has been on the HAC for 12 years and that "in the past" the HAC has been consulted on every aspect of the hygiene exam. Dr. Lenz made a motion, seconded by Dr. Jones, that the votes of the HAC not be counted towards the vote of changing the statute to enable the Board to change the date of the hygiene clinical exam. Ms. Reardon asked that the minutes reflect that the motion was contrary to her legal advice. Ms. Madden asked for clarification that Dr. Lenz was proposing that the Board go against the advice of its legal counsel. The motion passed by a majority vote, with Ms. Madden and Ms. Calicott-Trawick opposed. As a member of the HAC, Ms. Rust could not vote. Dr. Lenz asked what the Board uses in place of Robert's Rules of Order. Ms. Reardon responded that there is no specific parliamentary procedure such as Robert's Rules of Order. Ms. Reardon provided Dr. Lenz with the statutory citation to the Administrative Procedures Act.

The Board questioned the posture of the previous vote to advance legislation taken at the last meeting. Ms. Reardon advised that the Board would need to reconsider the vote taken at the last meeting in light of its ruling on the HAC's inability to vote. Dr. Jones made a motion, seconded by Dr. Lenz, to reconsider the vote based on the interpretation of the HAC's role and to reconsider the vote as a vote of 9 Board members with 6 affirmative votes in order to carry the prior motion. The motion passed by a majority vote, with Ms. Madden opposed and Ms. Calicott-Trawick abstaining. As a member of the HAC, Ms. Rust could not vote. Ms. Rust questioned and Ms. Reardon confirmed that the proposed statute change must be presented to the Joint Sunset Committee. Ms. Reardon will put the proposed language in bill format and give Dr. Director a template of the memorandum of support that will need to be completed to go along with the Board's proposal for law change. Ms. Reardon added that the proposal will not be presented during this legislative session due to the time constraint.

### **NEW BUSINESS**

#### Ratification of Licenses/Permits Issued by DPR Since May Board Meeting:

Dentist License – None

Dental Hygienist License – None

Restricted Permit I - None

Restricted Permit II - None

Unrestricted Permit - None

#### Review of Applications for Licensure

Dentist

MaryClare Kubasko

Anne Rohrer

Andrew Swiatowicz

Aaron Broderick

After review, Dr. McAneny made a motion, seconded by Dr. Jones, to approve the dentist licensure applications of MaryClare Kubasko, Anne Rohrer, Andrew Swiatowicz, and Aaron Broderick contingent upon receipt of proof of completion of residency. The motion was unanimously approved.

Akindeko Obebe

After review, Dr. McAneny made a motion, seconded by Dr. Jones, to approve the dentist licensure application of Akindeko Obebe. The motion was unanimously approved.

Dental Hygienist

Tina Roberts

The application was reviewed prior to the meeting by Ms. Madden. Ms. Madden made a motion, seconded by Ms. Rust, to approve the dental hygienist licensure application of Tina Roberts contingent upon her passing the jurisprudence exam. The motion was unanimously approved.

#### HB 456 – Request from Director Collins to Draft Legislation

Ms. Reardon summarized the purpose of House Bill 456, and advised that it resulted from reform legislation regarding the use of chaperones when treating children stemming from the Bradley medical practice case. Dr. Jones stated that the ADA advised that rules and regulations governing chaperoning children are based on individual jurisdictions and that having a chaperone is not an ADA requirement. Ms. Reardon will email samples of the provisions that have been developed by some of the other professional licensing boards as the result of the recommendations made by the Joint Sunset Committee and the new laws. Ms. Reardon noted that the boards governing the practice of medicine and massage have already developed chaperone requirements. Ms. Reardon will provide the samples to the Board members for their review prior to the August 25<sup>th</sup> meeting.

#### AADB Annual Meeting, October 9-10, 2011, Las Vegas, NV

Dr. McAneny stated that anyone interested in attending the AADB Annual Meeting should contact Ms. Howard for more information. Ms. Howard confirmed that the meeting information had been previously emailed to all Board members for their review.

### **COMPLAINT STATUS**

Dr. McAneny reported the following complaint statuses:

Complaint 09-15-09 (McAneny)	Hearing Scheduled 9/15/11
Complaint 09-03-10 (Lenz)	Hearing Scheduled 9/15/11
Complaint 09-09-11	Assigned to Dr. Jones
Complaint 09-10-11	Assigned to Dr. Jones
Complaint 09-11-11	Assigned to Dr. Jones

**CORRESPONDENCE**

None

**OTHER BUSINESS BEFORE THE BOARD (for discussion only)**

Dr. Jones stated that he had been contacted by a dentist regarding his desire to change the law governing licensure requirements for unrestricted anesthesia permits. Dr. Jones stated that he advised the dentist to write a letter to the Board outlining his concerns. Ms. Reardon asked if the dentist was Dr. Goleburn, and Dr. Jones confirmed. Ms. Reardon advised that Dr. Goleburn had sent a letter to the Board office regarding the issue, but that it was not received in time to be added to the Board's June agenda. Ms. Reardon stated that she had not reviewed the letter and that the matter should be deferred until it could be placed on the agenda.

**PUBLIC COMMENT**

Dr. David Williams recommended that the Board consider offering the dental exam prior to graduation, as it had proposed with the hygiene exam. Dr. Director confirmed that his motion at the previous meeting was to include both the dental and hygiene exams.

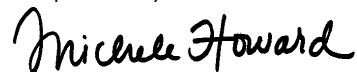
**NEXT MEETING**

The next Board meeting will be Thursday, August 25, 2011, at **3:00 p.m. in the second floor Conference Room B** of the Cannon Building.

**ADJOURNMENT**

Dr. Jones made a motion, seconded by Dr. Lenz, to adjourn the meeting at 5:42 p.m. The motion to adjourn passed unanimously.

Respectfully Submitted,

A handwritten signature in black ink that reads "Michele Howard". The signature is written in a cursive, flowing style.

Michele Howard  
Administrative Specialist II